

**MISC 14**

**359**

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2014.

Present - Hon. Angela M. Mazzarelli,  
Rolando T. Acosta  
Dianne T. Renwick  
Helen E. Freedman  
Sallie Manzanet-Daniels,

Justice Presiding,

Justices.

U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

2014 APR - 1 PM 3:59

FILED  
CLERK

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In the Matter of Donald B. Rosenberg  
(admitted as Donald Bertram Rosenberg),  
an attorney and counselor-at-law:

Departmental Disciplinary Committee,  
for the First Judicial Department,  
Petitioner,

M-6504

Donald B. Rosenberg  
(OCA Atty. Reg. No. 1282441),  
Respondent.

COGAN, J.

**FILED**

APR 01 2014

SUP COURT, APP. DIV.  
FIRST DEPT.

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The Departmental Disciplinary Committee for the First Judicial Department, by Jorge Dopico, its Chief Counsel (Kevin P. Culley, of counsel), having moved this Court on February 6, 2014, for an order pursuant to 22 NYCRR 603.4(e)(1)(i) and (iii), immediately suspending respondent (who, as Donald Bertram Rosenberg, was admitted to practice as an attorney and counselor-at-law in the State of New York at a Term of the Appellate Division of the Supreme Court for the First Judicial Department on June 23, 1959), from the practice of law in the State of New York, based upon his willful failure to cooperate with the Committee in its investigation of allegations of professional misconduct and other uncontested evidence of professional misconduct immediately threatening the public interest,

And respondent having failed to appear herein and having failed to interpose a response to the motion,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, and upon the Opinion Per Curiam filed herein, it is unanimously,

(M-6504)

-2-

April 1, 2014

Ordered that the motion is granted and respondent is suspended from the practice of law in the State of New York, effective the date hereof, until such time as disciplinary matters pending before the Committee have been concluded and until further order of this Court, and it is further,

Ordered that respondent is commanded to desist and refrain from the practice of law in any form, either as principal or agent, clerk or employee of another; that respondent is forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board or commission or other public authority; that respondent is forbidden to give another an opinion as to the law or its application or advice in relation thereto, all effective the date hereof, until such time as disciplinary matters pending before the Committee have been concluded and until further order of this Court. Respondent is directed to fully comply with the provisions of Title 22, Section 603.13, of the Rules of this Court, a copy of which is annexed hereto and made a part hereof.

ENTER:

  
CLERK

APPELLATE DIVISION SUPREME COURT FIRST DEPARTMENT  
STATE OF NEW YORK

I, SUSANNA ROJAS, Clerk of the Appellate Division of the Supreme Court First Judicial Department, do hereby certify that I have compared this copy with the original thereof filed in said office on 4/1/14 and that the same is a correct transcript thereof, and of the whole of said original.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of this Court on 4/1/14.

  
CLERK

APR 1 2014

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

Angela M. Mazzarelli,	Justice Presiding,
Rolando T. Acosta	
Dianne T. Renwick	
Helen E. Freedman	
Sallie Manzanet-Daniels,	Justices.

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In the Matter of Donald B. Rosenberg  
(admitted as Donald Bertram Rosenberg),  
an attorney and counselor-at-law:

Departmental Disciplinary Committee  
for the First Judicial Department,  
Petitioner,

M-6504

Donald B. Rosenberg,  
Respondent.

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Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Donald B. Rosenberg, was admitted to the Bar of  
the State of New York at a Term of the Appellate Division  
of the Supreme Court for the First Judicial Department on  
June 23, 1959.

Jorge Dopico, Chief Counsel, Departmental  
Disciplinary Committee, New York  
(Kevin P. Culley, of counsel), for petitioner.

No appearance for respondent.

M-6504 (February 6, 2014)

**IN THE MATTER OF DONALD B. ROSENBERG, AN ATTORNEY**

PER CURIAM

Respondent Donald B. Rosenberg was admitted to the practice of law in the State of New York by the First Judicial Department on June 23, 1959, under the name Donald Bertram Rosenberg. At all times relevant to these proceedings, respondent has maintained an office for the practice of law within the First Judicial Department.

In September and October 2012, the Department Disciplinary Committee received five separate complaints from respondent's former clients regarding the status of their personal injury actions and/or their settlement funds. Respondent answered each complaint and submitted bank records for his IOLA account for each client. These records revealed that respondent used each client's settlement funds for his own personal use without permission to do so.

Subsequently, this Court issued a subpoena requiring respondent's appearance for a deposition on July 22, 2013. Respondent failed to appear at the deposition. Instead, by letter dated July 19, 2013, respondent's counsel wrote the Committee advising that he was recently retained and after discussing the matter with respondent, "he now declines to appear at your Office for this deposition."

The Departmental Disciplinary Committee now seeks an order pursuant to the Rules of the Appellate Division, First Department (22 NYCRR 603.4[e][1][i] and [iii]), immediately suspending respondent from the practice of law based upon his failure to cooperate with disciplinary investigations concerning escrowed funds, and based upon uncontested evidence of professional misconduct (i.e., conversion of such escrowed funds).

The Committee served respondent's counsel with the motion to suspend. However, counsel has written this Court advising that he no longer represents respondent in connection with this motion; a copy of the motion was forwarded to respondent; and counsel spoke with respondent "and he understands that he will either have to retain counsel or proceed pro se." Respondent has not submitted a response.

The Committee has demonstrated that respondent has failed to fully cooperate with the Committee and that there is uncontested evidence, in the form of bank records, demonstrating that respondent improperly used his IOLA account (see *Matter of Linder*, 112 AD3d 152 [1st Dept 2013]; *Matter of Lee*, 14 AD3d 98 [1st Dept 2004]). Such conduct is "serious misconduct that demands an immediate response in defense of the public interest" (*Lee*, at 100 [internal quotation marks omitted]; see also *Matter of Harris*, 97 AD3d 96 [1st Dept 212]; *Matter of Reiss*, 96 AD3d 53 [1st Dept 2012]; *Matter of Maruggi*, 87 AD3d 201 [1st Dept 2011];

*Matter of Holubar*, 73 AD3d 214 [1st Dept 2010]); *Matter of Wertis*, 307 AD2d 15, 18-19 [1st Dept 2003]).

Accordingly, the Committee's motion for an order immediately suspending respondent from the practice of law until such time as disciplinary proceedings have been concluded and until further order of this Court should be granted.

All concur.

Order filed.